

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS*

9608. Action to enjoin and restrain the interstate shipment of adulterated bakery products. U. S. v. Connecticut Pie Co., and Mendel Behrend. Consent decree entered granting permanent injunction. (Inj. No. 132.)

COMPLAINT FILED: November 2, 1945, in the District of Columbia, against the Connecticut Pie Co., a corporation, and Mendel Behrend, treasurer and general manager of the corporation. The complaint alleged that the defendants had been and were manufacturing in the District of Columbia, and were introducing and delivering for introduction into interstate commerce, bakery products which were adulterated. The complaint alleged also that investigation and examination of the premises of the defendant corporation on October 30, 1945, disclosed that the conditions under which food was prepared, packed, and held therein were insanitary whereby the food may have been contaminated with filth and rendered injurious to health; that on October 27, 1945, at the Suburban Hospital in Bethesda, Montgomery County, Md., a number of persons became ill and suffered food poisoning as a result of eating pies manufactured by the defendants within the District of Columbia; that these pies were introduced into interstate commerce by the defendants; and that foods prepared under the insanitary conditions existing in the plant of the defendant endangered the health and well-being of those who consumed them.

The complaint alleged further that on December 15, 1945, a criminal information was filed in the District of Columbia, charging the corporate defendant with manufacturing in the District of Columbia and introducing into interstate commerce, foods that were adulterated in violation of Section 402 (a) (3) and (4); and that a plea of guilty was entered on behalf of the defendant, and fines of \$200 were imposed on each of 5 counts.

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the products contained poisonous and deleterious substances which may have rendered them injurious to health; Section 402 (a) (3), they consisted in whole or in part of filthy, putrid, and decomposed substances; and, Section 402 (a) (4), they had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth and whereby they may have been rendered injurious to health.

PRAYER OF COMPLAINT: That a preliminary injunction issue restraining the defendants from commission of the acts complained of, and that, after due proceedings, the preliminary injunction be made permanent.

DISPOSITION: The defendants were ordered to show cause why a preliminary injunction should not issue as prayed. On November 2, 1945, a temporary restraining order was entered. On November 26, 1945, the matter having come on for hearing, the defendants consented to the issuance of a preliminary injunction, and the court made the following findings of fact and conclusions of law:

H. A. SCHWEINHAUT, *District Judge*: "On the allegations of the complaint for Injunction which are supported by the facts set forth in the affidavits attached thereto, I find the following facts:

"1. The defendants have been manufacturing within the District of Columbia food that consists in whole or in part of filthy or putrid substances.

"2. The defendants have been manufacturing within the District of Columbia food that is prepared, packed, or held under insanitary conditions whereby it may become contaminated with filth.

"3. The defendants have been introducing or delivering for introduction into commerce in the District of Columbia food that has been prepared, packed, or held under insanitary conditions whereby it may become contaminated with filth.

"Upon the foregoing facts the following conclusions of law are stated:

"1. The Defendants have been manufacturing within the District of Columbia in violation of 21 U. S. C. 331 (g) food that is adulterated within the meaning of 21 U. S. C. 342 (a) (3) and (4).

*See also No. 9689.

"2. The Defendants have been introducing or delivering for introduction into commerce in the District of Columbia in violation of 21 U. S. C. 331 (a) food that is adulterated within the meaning of 21 U. S. C. 342 (a) (3) and (4)."

On March 11, 1946, the defendants having consented to the entry of a decree, judgment was entered ordering that the defendants, Mendel Behrend and the Connecticut Pie Co., a corporation, and agents, servants, and employees and all persons acting in concert with them, be permanently enjoined from manufacturing in the District of Columbia, any food that consisted in whole or in part of filthy or putrid substances; or any food that had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; and from introducing or delivering for introduction into commerce in the District of Columbia any food so adulterated.

9609. Adulteration of bakery products. U. S. v. Carolina Moon Pie Co., a partnership, and Otto Joseph Caudle. Plea of guilty. Partnership fined \$500. Judgment suspended for 1 year against individual defendant. (F. D. C. No. 16504. Sample Nos. 215-H, 221-H, 222-H, 224-H, 225-H.)

INFORMATION FILED: August 31, 1945, Western District of North Carolina, against the Carolina Moon Pie Co., a partnership, Charlotte, N. C., and Otto Joseph Caudle, a partner.

ALLEGED SHIPMENT: On or about March 2, 14, 15, and 16, 1945, from the State of North Carolina into the State of South Carolina.

LABEL, IN PART: "Dad's Carolina Apple Pies [or "Honey Dipped Doughnuts"]
* * * J. Q. Hudgins Charlotte, N. C."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: October 2, 1945. A plea of guilty having been entered, the partnership was fined \$500, and judgment was suspended for 1 year against the individual defendant.

9610. Adulteration and misbranding of bakery products. U. S. v. George J. Panos and Peter J. Panos (Tip Top Bakery). Pleas of guilty. Fine, \$100. (F. D. C. No. 16514. Sample Nos. 27471-H, 27472-H, 27476-H.)

INFORMATION FILED: September 27, 1945, District of Oregon, against George J. Panos and Peter J. Panos, trading as the Tip Top Bakery, Portland, Oreg.

ALLEGED SHIPMENT: On or about May 5, 1945, from the State of Oregon into the State of Washington.

LABEL, IN PART: "Tip Top White Sliced Enriched Bread," "Tip Top Bread Dutch Crunch," or "Tip Top Butter Cream Cake."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), (bread and cake) the articles consisted in whole or in part of filthy substances by reason of the presence of insect and larvae fragments; and, Section 402 (a) (4), they had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

Misbranding, Section 403 (a), (cake) the statement "Butter Cream" on the wrappers of the article was false and misleading since it represented and suggested that the article contained butter and cream, whereas it failed to contain those ingredients.

DISPOSITION: November 5, 1945. A plea of guilty having been entered, the court imposed a fine of \$25 on each count, a total fine of \$100.

9611. Adulteration of cake. U. S. v. Yur Favorit Cake Co., William H. Hauck, and Herbert H. Quitmeyer. Pleas of nolo contendere. Fines, \$1,000 against corporate defendant and \$250 against each individual defendant. (F. D. C. No. 16524. Sample Nos. 80287-F, 89968-F, 89969-F, 89971-F.)

INFORMATION FILED: August 7, 1945, Eastern District of Missouri, against the Yur Favorit Cake Co., a corporation, St. Louis, Mo., William H. Hauck, vice-president and treasurer of the corporation, and Herbert H. Quitmeyer, plant manager.

ALLEGED SHIPMENT: On or about August 18 and November 3, 1944, from the State of Missouri into the State of Illinois.

LABEL, IN PART: "Yur-Favorit * * * Cup Cakes," or "Yur-Favorit Cake Banana Bar [or "Jelly Roll"]."